



REGULATION OF FINGERPRINTING IN CRIMINAL CASES IN INDONESIA:
AUTHORITIES AND LIMITATIONS

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Abstract

In the stage of the criminal case investigation process will be carried out through several processes, one of which is by taking fingerprints. Fingerprints, which in English are called fingerprints or ductyloscopy, are taken in the investigation process for further examination of evidence that may be left at the scene of the crime. This research is a normative legal research that reveals two main problems, first: What is the legal basis for taking fingerprints in revealing criminal acts, second, how is the authority of investigators in taking fingerprints to reveal criminal acts. In taking fingerprints until now there has been no specific regulation, the name in the implementation of taking fingerprints of the Police is based on Law Number 2 of 2002 concerning the republic police and Law Number 8 of 1981 concerning criminal procedure law. And the authority of investigators in taking fingerprints is contained in Article 15 letter h of the Law on the Indonesian National Police (Law of the Republic of Indonesia Number 2 of 2002) Jo Article 7 paragraph 1 of the Criminal Procedure Code (KUHAP).

Keyword: Fingerprinting, Criminal Cases , Authorities and Limitations

Introduction

In solving cases of criminal acts, it will go through an investigation process which will bring up facts or evidence that will lead to a clue that serves to find the suspect. Studying crime and the problems inherent in it is studying the nature and form and development of human behaviour.¹

In terms of terms, investigation is the same as opsporing or enquiry. According to de Pinto, investigation (opsporing) means "a preliminary examination by the officials designated by law for that purpose, as soon as they have in any way heard reasonable news that an offence has been committed"..² In KUHAP, the investigation process is a series of investigator actions in the case and according to the method regulated in the law to seek and collect evidence with which the evidence makes light of the criminal act

¹ Romli Atmasasmita. 1984. Bunga Rampai KRIMINOLOGI. Jakarta: CV. Rajawali. Hal.109

² Andi Hamzah. 2008. Hukum Acara Pidana Indonesia. Jakarta: Sinar Grafik Offset. Hal.120.



that occurred and to find the suspect.

Thus, the function of the investigation is not only to find the suspect but can also be used to find a series of criminal offences that occurred. In the practice of criminal procedure law, which is confirmed in Article 184 of the Criminal Procedure Code, the legal means of evidence are: witness testimony, expert testimony, letters, instructions, and testimony of the defendant. To be able to find these evidences, the first stage of investigation is carried out, namely a process of searching and collecting evidence, identifying criminal acts, and finding the suspect.³ The law is therefore not allowed to pass judgement without clear and authentic evidence to show that the case is a violation of the law.

The investigation process will be carried out through several processes, one of which is by taking fingerprints. Fingerprints, which in English are called fingerprints or dactyloscopy, are taken in the investigation process for further examination of evidence that may be left at the scene of the crime. The evidence will be matched with the suspect's fingerprints if the suspect in this case has been found or the fingerprints can also be used to find a suspect in a case where no suspect has been found or confirm a suspect who has previously been found. The nature of the investigation itself is to obtain the truth based on actual facts.

There are four systems that are most powerful for investigators to re-introduce and search for the identity of the perpetrator, so that gradually the perpetrator or suspect can be known, namely:

1. Through the characteristics of the human being being searched.
2. Recognising a photo of the person being searched, accompanied by descriptions of their features.
3. Comparing the fingerprints of the person being searched.
4. The modus operandi of the criminal .⁴

The third system, concerning fingerprints, is the most interesting, because of the secrecy that surrounds the knowledge of fingerprints, so that it can also be said to be the main evidence in finding and identifying perpetrators. The basic point of secrecy is

³ Nur'aini A.M. 2003. Hukum Acara Pidana. Yogyakarta: Fakultas Syariah IAIN Sunan Kalijaga. Hal.17

⁴ Henny Saida Flora.Sidik Jari Pengungkap Tindak Pidana dalam <http://www.analisadaily.com/diakses> pada tanggal 29 Maret 2023.



:

1. No two people have the same fingerprint.
2. A person's fingerprints will not change during his/her lifetime⁵

Fingerprints are a personal identity that no one can match. Because of its uniqueness, fingerprints are used by the police in investigating a crime (forensic), therefore when a crime occurs, the crime scene will be secured and prohibited for anyone to enter because it is feared that it will damage the fingerprints of criminals who may be left in the evidence at the crime scene.

Discussion

A. Definition of Fingerprints

Fingerprints have long been known by the community in their lives, and scientists have long known about things that are considered important in fingerprints. If you look at the lines at the end of our palms and fingers, you will see an uneven or choppy shape, because of the fine lines that protrude out of one another separated by gaps. And this effect seems to form a fingerprint painting that each human has a different shape.

The skin of human palms and soles consists of 2 (two) layers, which are :

- 1) The Dermal Layer, is the inner layer of skin that is often also called the actual skin, because it is this layer that determines the shape of the lines found on the surface of the skin of the palms and soles of the feet. If the dermal layer is injured or deformed, the scars or defects will be permanent.
- 2) Epidermal layer, is the outer skin layer where there are fine lines that protrude out (hereinafter referred to as papillair lines). It is towards the paintings formed by the papillair lines that our attention is directed, to determine the main shape, smoothing and comparative examination of fingerprints..⁶

If the palm or foot is located on a flat and smooth surface, it will leave marks that are the same shape as those on the palm or finger itself. And this term is called latent fingerprints, which are hidden or invisible fingerprints.

The definition of fingerprint is “the production of fingerprints, whether deliberate or applied with ink or traces left on objects by handling or the formation of the skin of the palms or soles of the feet.”⁷

The science that studies fingerprints is Dactyloscopy derived from Greek, namely

⁵ ibid

⁶ Markas Besar Kepolisian Republik Indonesia. Penuntun Daktiloskopi, Subdirektorat Identifikasi Direktorat Reserse Polri, 1986.

⁷ Ibid.



Dactylos means finger, Copien means re-recognition. So Dactyloscopy is the study of fingerprints for the purposes of recognising a person. While the basis for the use of fingerprints is that each human being has fingerprints that are different from one another, human fingerprints never change from birth to death.

B. Fingerprints as Evidence

In the description of fingerprints as evidence, it will not be separated from the identification of the evidentiary system, because fingerprints are one of the functions of identification. For this reason, first describe what is meant by identification, namely "Efforts to prove the similarity of characteristics in order to re-identify humans, objects or goods scientifically."⁸

In general, identification can be interpreted as an effort made by the police to determine the similarity of a person or in other words, an effort to determine a person with certainty by matching the similarities that become the characteristics or characteristics of that person, such an effort is what is called identification. While one of the clear characteristics of a person is his fingerprints, that is why fingerprints can act as evidence in evidence to reveal criminal cases.

The basis for human fingerprints to be used as evidence are :

- a. Each fingerprint has its own line characteristics in terms of details, and is not the same as the others.
- b. The characteristics of the line, formed since the foetus is approximately 120 days old in the mother's womb, and does not change during life, until destroyed after death.
- c. A fingerprint can be formulated, so that it can be administered (stored and retrieved).⁹

In the fact, fingerprints are formed from an inner layer (Dermal Layer) in the form of lines found on the surface of the skin. This means that if you get injuries / abrasions on the outer skin layer (Epiermal Layer) that damage the lines, as long as it does not damage the Dermal layer then after a while the arrangement of fingerprint lines will re-form as before. This means that a person cannot easily damage his fingerprints. Because for that person must peel the skin layer to the dermal layer.

The development of human knowledge of fingerprints, through a long process from time to time and after being contested and compared with other methods, fingerprints are finally recognised as a system of evidence, and otherwise strengthen the position of fingerprints as evidence.

⁸ Departemen Pertahanan Keamanan Markas Besar Kepolisian Republik Indonesia, Petunjuk Pelaksanaan Fungsi Identifikasi Polri, Nomor : Juklak/08/V/1981, hal. 2

⁹ Markas Besar Kepolisian Republik Indonesia. Penuntun Daktiloskopi, Subdirektorat Identifikasi Direktorat Reserse Polri, 1986, h. 3 – 4.



Furthermore, fingerprints can be used as identification, so now it will be related to fingerprints as evidence. To that end, it will be explained what and how evidence is in an investigation.

Evidence in the investigation task is classified into 2 (two), they are:

1. Physical Evidence (items/goods)
2. Psychic Evidence (testimony/confession)

Comparing the two types of evidence, physical evidence is more objective because it can be said that objects cannot change unless someone or nature changes them. Objects will not lie, whereas psychological evidence may not be in line with reality. The evidentiary system adopted in Indonesia is the "Negative Evidentiary Method", i.e.: to convict the defendant, there must be valid evidence and the judge's conviction.

The system is stated in Article 183 of the Criminal Procedure Code (KUHAP) which reads: "The judge may not impose a sentence on a person, unless there are at least 2 valid evidence and he is convinced that a criminal offence has actually occurred and that the defendant is the guilty party."

From the above article, it can be interpreted that in order to blame the suspect, in addition to the existence of valid evidence, it must also be added with the confidence of the Judge. valid evidence is listed in Article 184 paragraph (1) of the Criminal Procedure Code, namely there are 5 types :

1. Witness Statement
2. Expert Testimony
3. Letter
4. Instructions
5. Defendant's statement

From that explanation, fingerprints are as clue evidence. In this case, it is the Police Identification Officer who is an expert in the field of Dactyloscopy. Thus it is clear that fingerprints are valid evidence. Fingerprints taken from humans themselves are considered physical evidence. Existing physical evidence is generally obtained at the scene of the crime, and processed in scientific ways, it will produce information that is truly objective and cannot be doubted by Science.

In the "Technical Guidebook on the Development of Latent Fingerprints with Puder and Their Removal (Lifting)", it is stated, "One of the physical evidence commonly found at the scene of the crime is Latent fingerprints: traces of the palms of hands, soles of feet that remain on the



surface of objects at the scene of the crime after the object is held or stepped on".¹⁰

Therefore, fingerprints are one of the evidence found at the scene of the crime in addition to other evidence. In connection with this, the success of the investigation / disclosure of criminal offences must be adjusted to the evidence and testimony. This means that fingerprints cannot be left out in the disclosure of a criminal offence. So in the disclosure of criminal offences, as much evidence and testimony as possible are obtained, it will provide the level of truth as expected by the community.

C. Fingerprint Capture Process

Dactyloscopy is used as a very important and powerful tool in solving crimes by the police. Dactyloscopy is an easy and precise way to recognise a person with the right signs and characteristics. Fingerprinting can be done with :

- a. Clapping the fingers with a roll of the hand
- b. Clapping the fingers with a flat press only

The fingerprints are pressed on a piece of fingerprint card, where there are columns for the fingers that have been tapped, and a column about the identity of the person who has been fingerprinted. From the results of taking fingerprints, it can be determined about a person's identity, whether he is a murderer, employee, and so on. Which can be used both for re-recognition, for investigation, for strengthening evidence and for certainty about a person's condition.

It is necessary to have a fingerprint file that is managed properly and correctly for identification purposes through fingerprints. The collection of fingerprint files is built through the activities of taking a person's fingerprints (whether a suspect/defendant or not), formulating them, and storing them in a certain way so that they can be easily retrieved in the future. Taking a person's fingerprints must be done properly so that it will help and facilitate efforts made to identify the person in the future.

Considering the importance of taking fingerprints, as described above, taking fingerprints of a person can be broadly divided into two groups, namely: For the benefit of the investigation and outside the interests of the investigation.

For the purpose of investigation, the Police take fingerprints of people who are related to a criminal offence case, especially suspects or witnesses. Furthermore, after being taken, formulated and collected, it is then stored in the form of a fingerprint card, which is intended to be used again in the future if a criminal case occurs with the same perpetrator. In addition, of course, it can be used again as evidence in the criminal case, so that it can reveal the criminal act.

¹⁰ Juknis Nomor Polisi : Juknis/04/III/1991, Pengembangan Sidik Jari Laten Dengan Serbuk Serta Pindahannya/Pengangkatannya (Lifting). Hal. 7



For purposes other than investigation, currently in accordance with the duties imposed on the Police (in this case in the identification section), it is attempted to provide assistance to agencies outside the Police, such as the Directorate General of Taxes, the Ministry of Finance, Customs, Jasa Raharja and Jiwa Sraya Insurance, Indonesian Banks and so on. This assistance is in the form of taking fingerprints of employees with a view to preventing or recognising employees in the event of a criminal case.

D. Legal Basis for Fingerprint Taking

The police have an agency or section that handles fingerprints from the Headquarters level of the Indonesian National Police, to the Police Resort level. At the Headquarters level this section is called the Identification Committee, then at the Regional Police and Regional Police levels it is called the Identification section.

Article 15 paragraph (1) of Law No. 2 of 2002 on the Indonesian National Police states that in order to carry out the duties as referred to in Articles 13 and 14, the Indonesian National Police is generally authorised:

- a. Receive reports and/or complaints;
- b. Assist in resolving community disputes that may disturb public order;
- c. Preventing and overcoming the growth of community diseases;
- d. Supervise streams that cause disunity or threaten national unity and integrity;
- e. Issuing police regulations within the scope of police administrative authority;
- f. Carry out special examination as part of police action in the context of prevention;
- g. Taking the first action at the scene;
- h. Taking fingerprints and other identities and photographing a person;
- i. Seeking information and evidence;
- j. Organising the National Criminal Information Centre;
- k. Issuing licences and/or certificates required in the context of public services;
- l. Providing security assistance in the trial and implementation of court decisions, activities of other agencies, and community activities;
- m. Receive and temporarily store found goods.

Based on these provisions, the Police can take a person's fingerprints, and then the fingerprints are formulated and collected and stored as documentation. To date, there is no national legislation on dactyloscopy. However, the implementation of Daktiloscopy by the Police is strengthened by Law No. 2 of 2002 and Law No. 8 of 1981, which authorise the Police to take fingerprints and photograph a person.

E. Function of Fingerprints in Investigation

Every investigator recognises the great function of Dactyloscopy as a means of identification. Years of experience in police forces all over the world prove that Dactyloscopy or



Fingerprint has a great function, not only as a means of identification but also as a means of investigation.

The functions of fingerprinting in investigation are:

1. As a Means of Identification

Identification is a way of proving characteristics, in order to scientifically recognising humans, animals, objects/goods and materials. Specifically in this description is the identification of humans / people. The characteristics that exist in a person are height, face shape, nose shape, ear shape, eye shape, hair colour, skin colour, blood type, fingerprints, tooth structure and voice type.

Identification as a system for recognising a creature / item covers a very broad field and recognises various systems, where in its development from the past until now there have been various identification terms as a result of investigations and discoveries of scholars to get a better identification system.

The identification system through fingerprints has advantages that are not possessed by other systems, including the existence of two provisions which are the postulates/principles of fingerprints that have been explained in the previous chapter. Until now, this postulate has never been refuted by anyone, because the reality in police practice shows that it has never been heard or a mistake has occurred in an effort to recognising someone through fingerprints. Therefore, there is no doubt among the police that the importance of the use of fingerprints as a means of identification of police aids in supporting investigative efforts.

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2. As a means of investigation

At the scene of the crime (TKP) often or even certainly left traces of the perpetrators of criminal offences, one of which is fingerprint marks. An expression that has been proven to be true, that as clever and as careful as criminals in carrying out their



operations, they must make mistakes because in committing these crimes a criminal is always overshadowed by fear and guilt. Fingerprints left at the scene of the crime, better known as Latent Fingerprint, can be used as a clue to recognise the perpetrator in addition to other evidence.

Based on the Dactyloscopy Handbook also explained that The powder used to develop latent fingerprints should contrast with the back ground where the fingerprints are left. For example, a black background (light colour). This not only allows the officer to clearly see the fingerprint but also as an aid to lifting or photographing the latent fingerprint.¹¹

After the fingerprints are developed and formulated, then by using the fingerprints stored in the Police archive, it can be known who has the fingerprints, in other words, it can be the key to successful efforts to identify and determine who is actually the perpetrator of a criminal offence that occurred. Of course, a ready-to-use comparison fingerprint is needed, in the sense that it is already available beforehand. Furthermore, fingerprints found at the scene of the crime and comparative fingerprints can be used in the process of proof in court.

Therefore, if fingerprints are processed properly by an expert in the field of Daktiloskopi, they can be used as a means of general investigation of a person's identity that cannot be falsified, in order to be used as evidence in court hearings which can further increase the confidence of the Judge in deciding cases..

In most cases, the type of fingerprints that can be found at a crime scene are Latent Impression type fingerprints, which are fingerprints that are not immediately visible and require some development first to make them clear. To search for latent fingerprints at the scene, use a flashlight (flash light) that is shined obliquely on the surface. When the light (flashlight) is shone from the right direction, latent fingerprints left on the surface will be clearly visible, but at the scene. This should not demoralise the officer, and the search effort should continue as usual with an eye on places where the suspect may have taken off his gloves to do some difficult work.

F. Storage and Usage of Fingerprints

The storage of fingerprint cards is essentially placing a fingerprint card in the file according to the fingerprint formula printed on the fingerprint card. In storing fingerprint cards, an

¹¹ Markas Besar Kepolisian Republik Indonesia. Penuntun Daktiloskopi, Subdirektorat Identifikasi Direktorat Reserse Polri, 1986, h. 86.



auxiliary file is also used in the form of a name card that contains data, including: the name and fingerprint formula printed on the fingerprint card concerned and this name card is stored alphabetically in the file.

To be able to support the implementation of identification (documentation), it needs to be carried out centrally and carried out by all police units from the Polsek level to the Central level. Centralised storage, meaning that every fingerprint obtained at the Polsek to Polda level, must be stored at the Polri Headquarters Identification Centre/Service level. Identification of fingerprints from both criminal offenders and non-criminal offenders.

The centralised storage of fingerprints is very necessary, because without centralised storage it will cause difficulties in finding a person's identification, as well as in using fingerprints to assist the investigation process. Fingerprint storage is carried out in the form of fingerprint cards, namely fingerprints that have been taken by the Police are then stamped and written on an AK 23 card and AK 24 card.

The Identification Function Implementation Manual explains that : :

The meaning of AK 23 card is:

Forms that have been standardised in the Police environment as a means for taking / or affixing fingerprints, general characteristics, siyalemen, handwriting samples, photographs and others of a person's identity.

Meanwhile, the meaning of the AK 24 Card is:

A card containing the name, fingerprint formula and some important notes about the person whose fingerprints have been taken.¹²

The fingerprint card is then sent to the Polres, Polda and up to the Polri Headquarters / Identification Service so that starting from the Polres level to the Polri Headquarters level stores the fingerprint card. This will make it easier to search again, if one day a criminal offence case occurs which happens to be the same person whose fingerprints have been taken. Because all fingerprints are stored centrally at the Police Headquarters Identification Service. And if a fingerprint left at the scene of the crime, if searched at the Polres level does not exist, at the Polres and Polda are also not found, it will be searched and expected to be at the Police Headquarters / Identification Service level.

¹² Departemen Pertahanan Keamanan Markas Besar Kepolisian Republik Indonesia, Petunjuk Pelaksanaan Fungsi Identifikasi Polri. Nomor : Juklak/08/V/1981, hal. 7



G. The Authority of Investigators to Take Fingerprints

According to the Criminal Procedure Code Article 1 paragraph (2) what is meant by investigation is “A series of actions of investigation in the case and according to the method regulated in this Law to seek and collect evidence, which with the evidence can make light of the criminal act that occurred in order to find the suspect.”.

So in general, investigation is a process of activities carried out when there is a suspicion that there has been a criminal act committed by someone, where these activities are intended to search for and find criminal acts that occur, to determine who the perpetrators are and to look for evidence in order to obtain convictions. The steps of the investigation carried out by the investigator start from visiting the scene of the crime, securing the scene of the crime, examining how the criminal enters and exits the scene of the crime and examining what the criminal has done, then photographing and sketching, disbursement of evidence left behind, especially physical evidence such as fingerprint marks, shoe soles, broken glass, knives, blood drops, cladding, at the scene of the crime (in the case of fingerprint marks) the investigator must be careful and try to facilitate the further investigation process.

The investigator conducts an examination of witnesses/victims if they are still alive in order to provide complete information, after obtaining sufficiently clear evidence and information, then the investigator conducts a search and pursuit of the perpetrator or suspect and arrests including searches of the residence (residence) of suspected persons up to the confiscation of goods that will be used or have been used to commit a criminal offence, as well as goods obtained from crime, then arrests and detains the suspects until the submission of the official report file to the Prosecutor's Office.

in Criminal Investigation and Interrogation Techniques Gerson W. Bawengan explains that:

“The investigation effort carried out is not just based on mere allegations, but a principle used is that the investigation aims to make a case clear by collecting evidence regarding the occurrence of a criminal event. In other words, an investigation is conducted when there are sufficient clues and/or evidence and a criminal action has occurred.”.¹³

The process of processing and analysing the evidence by the experts can be used to obtain evidence that can convince the judge in court The process of processing and analysing is not recognised for its truth and accuracy by the world used as a tool in the duties of the Police in criminal investigations including: Forensic Medicine, Criminalistics and so on with the intention of making light of a case (crime) with the most precise results without using coercion or violence.

¹³ Gerson W. Bawwengan. Penyidikan Perkara Pidana dan Teknik Interogasi, Penerbit : Pradnya Paramita, Jakarta. 1987, h.30.



In the process of investigation, investigators must have the willingness and ability to master the technical methods of how to use this science in order to assist in the implementation of investigation tasks. These methods and techniques include, among others, taking appropriate and precise samples, sending physical evidence found at the scene of the crime to be sent and requested for laboratory examination assistance by experts, so that it can be accurately and convincingly used as evidence in making light of a criminal case.

Article 14 paragraph 1 letter g of Law No. 2 of 2002 states that in carrying out the main tasks as referred to in article 13, the Indonesian National Police is tasked with conducting investigations into all crimes in accordance with the criminal procedure law and other laws and regulations.

From these articles, it can be understood that the Indonesian National Police is a law enforcement tool that has the task of conducting investigations / investigations and investigations into violations or crimes, which are considered contrary to the law or applicable provisions for the sake of upholding the law itself. The investigation/investigation and inquiry conducted by the Police is necessary to resolve criminal acts in the judicial process.

Article 1 paragraph (2) and Article 6 paragraphs (1a) and (1b) of the Criminal Procedure Code state that “Investigators are police officers of the Republic of Indonesia or certain civil servants, who are specifically authorized by law to conduct investigations”. And article 1 paragraph (4) and article 4 of KUHAP, explains that "Investigator is every police officer of the Republic of Indonesia who is authorised by law to conduct investigations".

The conclusion is the Indonesian National Police, in accordance with the requirements stipulated by law, have the function of investigators in addition to other civil servants as well as investigators, who are authorised by law to conduct investigations and inquiries. In relation to investigations, Article 15 of Law No. 2 of 2002 Article 7 paragraph (1) of the Criminal Procedure Code states that “That Police Officers/Investigators in their investigations are authorised to take fingerprints and photograph a person”.

The conclusion is the investigators in carrying out their duties have the authority to take someone's fingerprints. The taking of fingerprints is used for the benefit of the investigation, especially those related to a criminal offence, such as suspects and witnesses, as well as outside the interests of the investigation and investigations made by investigators in the context of Police duties have a very important meaning in order to reveal criminal acts that have occurred.



Closing

1. The legal basis of the Indonesian National Police for taking fingerprints until now there has been no specific regulation, the name in the implementation of taking fingerprints of the National Police is based on Law Number 2 of 2002 and Law Number 8 of 1981.
2. The authority of investigators in taking fingerprints is contained in Article 15 letter h of the Law on the Indonesian National Police (Law of the Republic of Indonesia Number 2 of 2002) Jo Article 7 paragraph 1 of the Criminal Procedure Code. Fingerprints taken by the Police are then stored in boxes and given a special code provided by the Police, which can be used at any time. The storage of fingerprints in each police unit starting from the Sector Level is an absolute thing for the implementation of the identification function. Because it is a source of person data. The storage itself aims to facilitate or assist work in the police environment that requires the document.



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